the abettor. In a recent Illinois case suicide was held to be no crime under the statutes of that state, and, therefore, no defense to recovery on a contract of insurance providing that the certificate should be void if the member died in consequence of a violation of the laws of the state. *Royal Circle* v. *Achterrath*, 68 N. E. Rep. 492. The same court in another case [6] suggests that, although suicide is no crime, the one who procures another to commit the act of self-destruction may be held liable as a principal to the crime of murder, on grounds somewhat analogous to the theory of agency in civil cases. But, since the agent's act for which the principal is to be held guilty is suicide, it follows that if this suggestion is correct suicide must be murder in spite of the court's express disaffirmation.

The foregoing seems to indicate that under our law suicide is no less criminal than under the English common law, but that the policy of our law in dealing with the suicide is radically different. No punishment is, in general, prescribed either for one who kills himself or for one who unsuccessfully attempts to do so, not because his act is not criminal, but because the futility of such measures in preventing future crime is now generally recognized.[7] These considerations, however, cannot be invoked to shield one who encourages, abets, or assists another in committing suicide, and he should, therefore, be punished as any other criminal. Although, under a code which makes no mention of suicide and which defines murder as the malicious killing of another, there may be no logical ground upon which the abettor can be held guilty of any crime, nevertheless, in jurisdictions in which the common law definition of murder still obtains, suicide may well be considered as one form of murder, and the abettor punished accordingly.

THE ENJOINING OF CRIMINAL PROCEEDINGS. — It is an ancient maxim that a court of equity will not restrain criminal proceedings.[1] Like most legal maxims, this assertion, though generally true, does not accurately represent the state of the law. In one case at least, equity freely enjoins criminal proceedings, that is, when the party instituting them is already a plaintiff in equity against the same defendant. In such a case the court of equity will not allow the criminal court to interfere with its jurisdiction to the annoyance of the defendant.[2] And in certain other cases an injunction has been allowed where the party instituting the criminal proceedings has not come into equity at all.[3] It must be admitted, however, that the courts appear to have adopted no general principles on which relief may be granted. About all that can be said is that the plaintiff must make out a sufficiently hard case. Still it is not impossible to get some idea of the considerations which should appeal to the court in the exercise of its discretion.

It would seem necessary, in the first place, to distinguish between *ex relatione* proceedings and cases prosecuted by an officer really acting in behalf of the state. In the first class of actions the officer is, in fact, redressing a private injury; in the second, he is trying to secure the

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[6] See Burnett *v.* People, 68 N. E. Rep. 505, 511 (Ill.).
[7] See 17 HARV. L. REV. 331.

[1] See Story, Eq. Jur. 13th ed., § 893; Lord Montague *v.* Dudman, 2 Ves. 396.
[2] Mayor of York *v.* Pilkington, 2 Atk. 302.
[3] Iron Works *v.* French, 12 Abb. N. C. (N. Y.) 446.

punishment of a wrong to the state as such. Here his duty to the state is so immediate that interference with him is practically an interference with the administrative arm of the government. To justify equity in acting here at all, we need an extremely strong case, and the plaintiff's conduct must be in no way immoral *per se*. Even then the interference should go no further than is necessary to prevent the officer from prosecuting in an unreasonable and unnecessarily damaging way. Thus where a number of prosecutions on the same facts are threatened, and it can be shown that irreparable damage will result from them, equity might enjoin all the proceedings save one, leaving that one to determine the controversy. Again, where the proceedings threatened are merely to impose a fine to enforce a tax, although no irreparable injury is shown, the avoidance of a multiplicity of prosecutions is also held enough to give equity jurisdiction.[4]

In those cases where the prosecution is at the instance of a private party, equity may well feel more free to act, although here again the plaintiff must come into equity clear of the charge of conduct in itself immoral. Given such a case, if it can be shown that irreparable injury will result from the criminal proceedings it would seem that equity ought to take jurisdiction and finally decide whether the plaintiff has committed an offense. It would be a stronger case for interference if only the validity of a statute were involved or the question whether certain admitted acts constitute an offense, since where there are issues of fact there is a strong feeling among judges that the best place to try them is before a jury. But even if facts are in dispute, it still seems as if the balance of advantages is in favor of taking jurisdiction in all cases where irreparable damage is threatened. On the other hand, if the damage is not irreparable, though great, and if issues of fact alone are raised, it would seem unnecessary to take the question from a jury; but where the acts complained of are admitted, and the only question is whether they constitute an offense, it would seem that a court of equity could decide the matter as well as a court of law. In that way the risk of damaging an innocent party would be avoided. In the case of *Greiner-Kelly Drug Co.* v. *Truett*, 79 S. W. Rep. 4 (Tex., Sup. Ct.), however, the court held that equity under these circumstances has no jurisdiction.

WHAT LAW GOVERNS USURIOUS CONTRACTS. — As a question of conflict of laws, two general rules have been adopted to determine what law governs usury in contracts. One, sustained by comparatively few jurisdictions, is that the contract is governed by the law of the place of contracting;[1] the other, the more generally accepted, is that the intention of the parties determines which law governs. The latter rule is, however, applied differently in accordance with two different rules of presumption. In some states the law of the place of performance is deemed the law intended, unless the actual intention to the contrary is shown.[2] The prevailing doctrine, however, is that, if by either the law of the place of contracting or of the place of performance the contract would be valid, the parties are pre-

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[4] Chicago *v.* Collins, 175 Ill. 445.

[1] Akers *v.* Demond, 103 Mass. 318.

[2] Bennett *v.* Building & Loan Ass'n, 177 Pa. St. 233.